

### **REMARKS/ARGUMENTS**

With this Amendment, Applicant amends claims 1 and 6 and adds new claims 25-26. No new matter is added. Accordingly, claims 1-26 are currently pending in the application. However, claims 12-24 are withdrawn from consideration in light of the response to the restriction requirement filed October 7, 2008. Based on the foregoing amendments and the following remarks, Applicant requests reconsideration of the application and allowance of the claims.

#### **I. Rejection of Claims 1-11 Under 35 U.S.C. § 103(a)**

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Frederick et al. (U.S. Patent No. 6,112,502; hereinafter “Frederick”) in view of Lucas (U.S. Patent No. 6,996,538; hereinafter “Lucas”).

Claim 1 as herein amended recites, *inter alia*, “[a] method, comprising: at a health care facility: *generating data representative of dispensed items; ... automatically generating*, via a computing device, *a purchase order from said data* in response to one or more items contained in a storage location *being diminished below a predetermined level.*”

Applicant submits that the combination of Frederick and Lucas does not teach or suggest all of the features of amended claim 1. In rejecting claim 1, the Examiner correctly concedes that “Frederick fails to disclose a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility.” (See pg. 3 of the Office Action) However, the Examiner relies on the abstract and “col. 2, lines 35-44” of Lucas to make up for the deficiencies of Frederick. (See *id.*) Applicant disagrees and submits that Lucas does not make up for what Frederick lacks.

In contrast to claim 1, Frederick, alone or in combination with Lucas, at best discloses a system for monitoring and dispensing medical items “to treat patients in a hospital, clinic or other healthcare setting.” (Col. 1, lines 5-9 of Frederick) In rejecting claim 1, the Examiner relies on “col. 57, lines 4-17” of Frederick, alone or in combination with Lucas, as allegedly disclosing assembling a purchase order from data representative of dispensed items. (See pg. 2 of the Office Action) In contrast to amended claim 1, the cited portion and indeed all of Frederick, alone or in combination with Lucas at best discloses a “restocking terminal”

connected to a printer that is "capable of printing a restocking report" which may contain "machine readable indicia concerning storage locations which require replenishment of medical items." However, nowhere in Frederick, alone or in combination with Lucas, is there any mention, teaching or suggestion relating to *automatically generating* a purchase order from data representative of dispensed items *in response* to one or more *items* contained in a storage location *being diminished below a predetermined threshold*, as required by amended claim 1. In contrast to claim 1, Frederick, alone or in combination with Lucas, at best discloses that the restocking report therein is generated responsive to a request to dispense items from dispensing devices. (Abstract & Col. 56, lines 15-27 of Frederick)

Since Frederick, alone or in combination with Lucas, discloses that the restocking report is generated upon receipt of a request, the combination of Frederick and Lucas fails to teach or suggest automatic generation of a purchase order in response to one or more items in a storage location being diminished below a predetermined threshold, as claimed. The combination of Frederick and Lucas fails to contemplate automatic generation of a purchase order when items in a storage location are diminished below a threshold, as required by claim 1.

As discussed above, the Examiner merely relies on Lucas for the proposition that Lucas discloses assembling purchase order items and shipping the assembled items to a healthcare facility. (See pg. 3 of the Office Action). However, nowhere in Lucas, alone or in combination with Frederick, is there any mention, teaching or suggestion relating to automatically generating, via a computing device, a purchase order from data representative of dispensed items in response to one or more items contained in a storage location being diminished below a predetermined level, as claimed. In contrast to claim 1, Lucas at best discloses a system which enables third-parties to monitor inventory of a company via the Internet and allow the company to order needed items. (Col. 2, lines 35-44 & Abstract of Lucas) In contrast to claim 1, allowing a company to order needed items via the Internet does not teach or suggest automatic generation of a purchase order in response to items in a storage location being diminished below a predetermined level, as required by amended claim 1.

Based at least on the foregoing reasons, Applicant submits that the combination of Frederick and Lucas is deficient and does not teach or suggest all of the features of claim 1.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of claim 1 and its dependent claims 2-5.

Independent claim 6, recites *inter alia*, “[a] method, comprising: *generating data representative of items dispensed in a healthcare facility; ... automatically generating, via a computing device, one or more purchase orders from said data in response to one or more items contained in a storage location being diminished below a predetermined threshold*, wherein each said purchase order represents items from one or more storage locations within a restocking location ...”

Since independent claim 6 recites features that are analogous to, though not necessarily coextensive with, the features recited in independent claim 1, Applicant submits that independent claim 6 and its dependent claims 7-11 are patentable at least for reasons analogous to those submitted for independent claim 1.

## **II. New Claims**

Applicant herein adds new claims 25-26 to provide more varied protection of Applicant's invention as described in the specification. In addition to their respective dependencies from independent claims 1 and 6, Applicant submits that new claims 25 and 26 recite independently patentable subject matter given that the cited references, alone or in combination, do not teach or suggest the features of these claims.

## **III. Conclusion**

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Appl. No.: 10/730,657  
Amdt. dated March 10, 2009  
Reply to Office Action of December 11, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cory Davis", with a horizontal line drawn underneath the name.

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**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON March 10, 2009.**